

REFERENCE TITLE: public employees; collective bargaining.

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1216

Introduced by
Senators Burton Cahill, Miranda, Rios: Alvarez, Lopez; Representatives
Ableser, Lopes, Schapira

AN ACT

AMENDING TITLE 23, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7;
AMENDING SECTION 41-1092.02, ARIZONA REVISED STATUTES; AMENDING TITLE 41,
CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION
41-3019.01; RELATING TO THE PUBLIC EMPLOYEE BARGAINING ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 8, Arizona Revised Statutes, is amended
3 by adding article 7, to read:

4 ARTICLE 7. PUBLIC EMPLOYEE BARGAINING ACT

5 23-1421. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "APPROPRIATE BARGAINING UNIT" MEANS A GROUP OF PUBLIC EMPLOYEES
8 DESIGNATED BY THE BOARD OR A LOCAL BOARD FOR THE PURPOSE OF COLLECTIVE
9 BARGAINING.

10 2. "APPROPRIATE GOVERNING BODY" MEANS THE POLICYMAKING BODY OR
11 INDIVIDUAL REPRESENTING A PUBLIC EMPLOYER.

12 3. "BOARD" MEANS THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

13 4. "CERTIFICATION" MEANS THE DESIGNATION, BY THE BOARD OR A LOCAL
14 BOARD, OF A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE FOR ALL PUBLIC
15 EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT.

16 5. "COLLECTIVE BARGAINING" MEANS THE ACT OF NEGOTIATING BETWEEN A
17 PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FOR THE PURPOSE OF ENTERING
18 INTO A WRITTEN AGREEMENT REGARDING WAGES, HOURS AND OTHER TERMS AND
19 CONDITIONS OF EMPLOYMENT.

20 6. "CONFIDENTIAL EMPLOYEE" MEANS A PERSON WHO ASSISTS AND ACTS IN A
21 CONFIDENTIAL CAPACITY TO A PERSON WHO FORMULATES, DETERMINES AND EFFECTUATES
22 MANAGEMENT POLICIES FOR MEETING AND CONFERRING.

23 7. "EXCLUSIVE REPRESENTATIVE" MEANS THE LABOR ORGANIZATION CERTIFIED
24 TO BE THE SOLE MEET AND CONFER AGENT OF ALL PUBLIC EMPLOYEES IN THE
25 APPROPRIATE BARGAINING UNIT FOR THE PURPOSES OF COLLECTIVE BARGAINING.

26 8. "IMPASSE" MEANS THE FAILURE OF A PUBLIC EMPLOYER AND AN EXCLUSIVE
27 REPRESENTATIVE, AFTER GOOD FAITH BARGAINING, TO REACH AGREEMENT IN THE COURSE
28 OF NEGOTIATING A COLLECTIVE BARGAINING AGREEMENT.

29 9. "LABOR ORGANIZATION" MEANS AN EMPLOYEE ORGANIZATION WHOSE PURPOSE
30 IS THE REPRESENTATION OF PUBLIC EMPLOYEES IN COLLECTIVE BARGAINING AND IN
31 MEETING, CONSULTING AND CONFERRING WITH EMPLOYERS ON MATTERS PERTAINING TO
32 EMPLOYMENT RELATIONS.

33 10. "LOCAL BOARD" MEANS A LOCAL LABOR RELATIONS BOARD ESTABLISHED BY A
34 PUBLIC EMPLOYER THAT IS A POLITICAL SUBDIVISION OF THIS STATE THROUGH
35 ORDINANCE, RESOLUTION OR CHARTER AMENDMENT.

36 11. "LOCKOUT" MEANS AN ACT BY A PUBLIC EMPLOYER TO PREVENT ITS
37 EMPLOYEES FROM GOING TO WORK FOR THE PURPOSE OF RESISTING THE DEMANDS OF THE
38 EMPLOYEES' EXCLUSIVE REPRESENTATIVE OR FOR THE PURPOSE OF GAINING A
39 CONCESSION FROM THE EXCLUSIVE REPRESENTATIVE.

40 12. "MANAGEMENT EMPLOYEE" MEANS AN EMPLOYEE WHO IS ENGAGED PRIMARILY IN
41 EXECUTIVE AND MANAGEMENT FUNCTIONS AND WHO IS CHARGED WITH THE RESPONSIBILITY
42 OF DEVELOPING, ADMINISTERING OR EFFECTUATING MANAGEMENT POLICIES. MANAGEMENT
43 EMPLOYEE DOES NOT INCLUDE AN EMPLOYEE WHO PARTICIPATES IN COOPERATIVE
44 DECISION MAKING PROGRAMS ON AN OCCASIONAL BASIS.

1 13. "MEDIATION" MEANS ASSISTANCE BY AN IMPARTIAL THIRD PARTY TO
2 RESOLVE, THROUGH INTERPRETATION, SUGGESTION AND ADVICE, AN IMPASSE BETWEEN A
3 PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE REGARDING EMPLOYMENT
4 RELATIONS.

5 14. "PUBLIC EMPLOYEE" MEANS AN EMPLOYEE OF THIS STATE OR ANY POLITICAL
6 SUBDIVISION OF THIS STATE BUT DOES NOT INCLUDE ELECTED OFFICIALS OR PERSONS
7 WHO ARE APPOINTED TO SERVE ON BOARDS OR COMMISSIONS.

8 15. "PUBLIC EMPLOYER" MEANS THIS STATE AND ANY POLITICAL SUBDIVISION OF
9 THIS STATE.

10 16. "STRIKE" MEANS A PUBLIC EMPLOYEE'S REFUSAL IN CONCERTED ACTION WITH
11 OTHERS TO REPORT FOR DUTY, THE WILFUL ABSENCE BY AN EMPLOYEE FROM THE
12 EMPLOYEE'S POSITION OR THE STOPPING OF WORK OR THE ABSENCE FROM THE FULL,
13 FAITHFUL OR PROPER PERFORMANCE OF DUTIES FOR THE PURPOSE OF INDUCING,
14 INFLUENCING OR COERCING A CHANGE IN THE CONDITIONS, COMPENSATION, RIGHTS,
15 PRIVILEGES OR OBLIGATIONS OF PUBLIC EMPLOYMENT.

16 17. "SUPERVISOR" MEANS AN INDIVIDUAL WHO IS EMPLOYED BY AN EMPLOYER AND
17 WHO:

18 (a) HAS THE AUTHORITY IN THE INTEREST OF THE EMPLOYER TO HIRE,
19 TRANSFER, FURLOUGH, LAY OFF, RECALL, SUSPEND, DISCIPLINE OR REMOVE OTHER
20 EMPLOYEES, IF THE EXERCISE OF THE AUTHORITY IS NOT MERELY ROUTINE OR CLERICAL
21 IN NATURE BUT REQUIRES THE CONSISTENT EXERCISE OF INDEPENDENT JUDGMENT.

22 (b) DEVOTES A MAJORITY OF TIME AT WORK EXERCISING THIS AUTHORITY.

23 23-1422. Public employee rights

24 A. PUBLIC EMPLOYEES MAY FORM, JOIN AND PARTICIPATE IN, OR REFRAIN FROM
25 FORMING, JOINING OR PARTICIPATING IN, ANY LABOR ORGANIZATION.

26 B. PUBLIC EMPLOYEES MAY BE REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE
27 AND MAY MEET AND CONFER THROUGH THE EXCLUSIVE REPRESENTATIVE WITH THEIR
28 PUBLIC EMPLOYER IN THE DETERMINATION OF THE TERMS AND CONDITIONS OF THEIR
29 EMPLOYMENT, INCLUDING THE RIGHT TO BE REPRESENTED IN THE DETERMINATION OF
30 GRIEVANCES ON ALL TERMS AND CONDITIONS OF EMPLOYMENT.

31 C. PUBLIC EMPLOYEES MAY ENGAGE IN CONCERTED ACTIVITIES NOT PROHIBITED
32 BY LAW FOR THE PURPOSE OF MEETING AND CONFERRING ON OTHER MUTUAL AID OR
33 PROTECTION OR MAY REFRAIN FROM ENGAGING IN THESE ACTIVITIES.

34 D. PUBLIC EMPLOYEES MAY EXERCISE THE RIGHTS PROVIDED FOR IN THIS
35 SECTION FREE FROM INTERFERENCE, INTIMIDATION, RESTRAINT, COERCION OR
36 DISCRIMINATION.

37 23-1423. Public employer rights

38 IN ADDITION TO ALL OF THE POWERS, RIGHTS AND DUTIES ESTABLISHED BY LAW,
39 A PUBLIC EMPLOYER HAS THE RIGHT TO:

40 1. DETERMINE THE MISSION OF ITS AGENCIES, SET STANDARDS OF SERVICE TO
41 BE OFFERED TO THE PUBLIC AND EXERCISE CONTROL OVER ITS ORGANIZATION AND
42 OPERATIONS.

43 2. DIRECT, PROMOTE OR ASSIGN ITS EMPLOYEES, TAKE DISCIPLINARY ACTION
44 FOR JUST CAUSE AND RELIEVE ITS EMPLOYEES FROM DUTY FOR LACK OF WORK.

23-1424. Appropriate governing body

A. THE APPROPRIATE GOVERNING BODY SHALL BE AS FOLLOWS:

1. FOR THIS STATE, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE.

2. FOR A CONSTITUTIONALLY CREATED BODY, THE DESIGNATED HEAD OF THAT BODY.

3. FOR A LOCAL PUBLIC BODY, THE ELECTED OR APPOINTED REPRESENTATIVE BODY OR INDIVIDUAL CHARGED WITH MANAGEMENT OF THE LOCAL PUBLIC BODY.

B. IF THERE IS A DISPUTE REGARDING WHO THE APPROPRIATE GOVERNING BODY IS, THE BOARD SHALL DETERMINE THE APPROPRIATE GOVERNING BODY.

23-1425. Public employee labor relations board; membership; appointments; director; compensation

A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD IS ESTABLISHED.

B. THE BOARD CONSISTS OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR:

1. ONE MEMBER WHO IS INVOLVED IN REPRESENTING PUBLIC EMPLOYEES.

2. ONE MEMBER WHO IS A PUBLIC EMPLOYER AND WHO IS ACTIVELY INVOLVED IN COLLECTIVE BARGAINING.

3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2.

C. BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT OCCUR, OTHER THAN BY THE EXPIRATION OF A TERM, SHALL BE FILLED IN THE SAME MANNER FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A BOARD MEMBER SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC OFFICE, BE A PUBLIC EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION THAT REPRESENTS PUBLIC EMPLOYEES OR PUBLIC EMPLOYERS. BOARD MEMBERS MAY SERVE AN UNLIMITED NUMBER OF TERMS.

D. THE BOARD SHALL APPOINT A DIRECTOR, WHO IS ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

E. BOARD MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611 AND ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

23-1426. Public employee labor relations board; powers and duties

A. THE BOARD SHALL:

1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE, INCLUDING RULES FOR:

(a) DESIGNATING APPROPRIATE BARGAINING UNITS.

(b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.

(c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF PROHIBITED PRACTICES.

2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES ADOPTED PURSUANT TO THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO ENFORCE THIS ARTICLE.

3. HOLD HEARINGS AND MAKE INQUIRIES NECESSARY TO CARRY OUT ITS FUNCTIONS AND DUTIES.

1 4. CONDUCT STUDIES ON PROBLEMS RELATING TO EMPLOYEE AND EMPLOYER
2 RELATIONS.

3 5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE
4 INFORMATION AND DATA NECESSARY TO CARRY OUT THE BOARD'S FUNCTIONS AND
5 RESPONSIBILITIES.

6 6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN THE
7 FORM OF WRITTEN ORDERS AND OPINIONS.

8 B. THE BOARD MAY:

9 1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE ATTENDANCE
10 AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE, INCLUDING
11 BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY MATTER IN
12 QUESTION.

13 2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL
14 ACTIONS IN DISTRICT COURT.

15 3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE
16 EVIDENCE.

17 4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE BOARD
18 IN ITS FUNCTIONS.

19 C. THE BOARD SHALL NOT REQUIRE ANY PUBLIC EMPLOYEE TO PAY MONEY TO ANY
20 LABOR ORGANIZATION AS A CONDITION OF EMPLOYMENT.

21 23-1427. Local boards; members; powers and duties

22 A. EXCEPT FOR THIS STATE AND IF THE PUBLIC EMPLOYEE LABOR RELATIONS
23 BOARD APPROVES, A PUBLIC EMPLOYER BY ORDINANCE, RESOLUTION OR CHARTER
24 AMENDMENT MAY ESTABLISH A LOCAL BOARD SIMILAR TO THE PUBLIC EMPLOYEE LABOR
25 RELATIONS BOARD. IF ESTABLISHED AND APPROVED, THE LOCAL BOARD SHALL ASSUME
26 THE DUTIES AND RESPONSIBILITIES OF THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.
27 A LOCAL BOARD SHALL FOLLOW ALL PROVISIONS OF THIS ARTICLE THAT APPLY TO THE
28 PUBLIC EMPLOYEE LABOR RELATIONS BOARD UNLESS OTHERWISE APPROVED BY THE PUBLIC
29 EMPLOYEE LABOR RELATIONS BOARD.

30 B. A LOCAL BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS WHO ARE
31 APPOINTED BY THE PUBLIC EMPLOYER:

32 1. ONE MEMBER WHO REPRESENTS PUBLIC EMPLOYEES.

33 2. ONE MEMBER WHO REPRESENTS MANAGEMENT.

34 3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE
35 APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

36 C. LOCAL BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT
37 OCCUR, OTHER THAN BY THE EXPIRATION OF A TERM, SHALL BE FILLED IN THE SAME
38 MANNER FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A
39 LOCAL BOARD MEMBER SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC
40 OFFICE, BE A PUBLIC EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION
41 THAT REPRESENTS PUBLIC EMPLOYEES OR PUBLIC EMPLOYERS. BOARD MEMBERS MAY
42 SERVE AN UNLIMITED NUMBER OF TERMS.

43 D. LOCAL BOARD MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION AND
44 REIMBURSEMENT OF EXPENSES.

1 E. THE LOCAL BOARD SHALL:

2 1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS
3 ARTICLE, INCLUDING RULES FOR:

4 (a) DESIGNATING APPROPRIATE BARGAINING UNITS.

5 (b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.

6 (c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF
7 PROHIBITED PRACTICES.

8 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES ADOPTED PURSUANT TO
9 THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO ENFORCE THIS
10 ARTICLE.

11 3. HOLD HEARINGS AND MAKE INQUIRIES NECESSARY TO CARRY OUT ITS
12 FUNCTIONS AND DUTIES.

13 4. CONDUCT STUDIES ON PROBLEMS RELATING TO EMPLOYEE AND EMPLOYER
14 RELATIONS.

15 5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE
16 INFORMATION AND DATA NECESSARY TO CARRY OUT THE LOCAL BOARD'S FUNCTIONS AND
17 RESPONSIBILITIES.

18 6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN THE
19 FORM OF WRITTEN ORDERS AND OPINIONS.

20 F. THE LOCAL BOARD MAY:

21 1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE ATTENDANCE
22 AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE, INCLUDING
23 BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY MATTER IN
24 QUESTION.

25 2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL
26 ACTIONS IN DISTRICT COURT.

27 3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE
28 EVIDENCE.

29 4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE BOARD
30 IN ITS FUNCTIONS.

31 23-1428. Hearing procedures

32 A. THE BOARD OR A LOCAL BOARD MAY HOLD HEARINGS TO GATHER INFORMATION,
33 MAKE INQUIRIES, ADOPT RULES, ADJUDICATE DISPUTES AND ENFORCE THIS ARTICLE.

34 B. THE BOARD OR A LOCAL BOARD SHALL ADOPT RULES TO GOVERN PROCEDURES
35 FOR THE HEARINGS. THE RULES ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE ALL
36 MINIMAL DUE PROCESS REQUIREMENTS REQUIRED BY THE UNITED STATES CONSTITUTION
37 AND THE CONSTITUTION OF THIS STATE.

38 C. THE BOARD OR A LOCAL BOARD MAY APPOINT A HEARING OFFICER TO CONDUCT
39 ANY ADJUDICATION HEARING AUTHORIZED BY THE BOARD OR LOCAL BOARD. AT THE
40 CONCLUSION OF THE HEARING, THE HEARING OFFICER SHALL PREPARE A WRITTEN
41 REPORT, INCLUDING FINDINGS AND RECOMMENDATIONS, AND SHALL SUBMIT THE REPORT
42 TO THE BOARD OR LOCAL BOARD FOR ITS DECISION.

43 D. THE BOARD OR A LOCAL BOARD SHALL NOT PROPOSE TO ADOPT A RULE THAT
44 AFFECTS ANY PERSON OR GOVERNMENTAL ENTITY OUTSIDE OF THE BOARD'S OR LOCAL
45 BOARD'S JURISDICTION. THE BOARD OR LOCAL BOARD SHALL CONDUCT A PUBLIC

1 HEARING TO ADOPT, AMEND OR REPEAL ANY RULE AND ALLOW A PUBLIC HEARING AND
2 COMMENT ON THE PROPOSED ACTION BEFORE THE BOARD OR LOCAL BOARD. THE PUBLIC
3 HEARING SHALL BE HELD AFTER NOTICE OF THE SUBJECT MATTER OF THE RULE, THE
4 ACTION PROPOSED TO BE TAKEN, THE TIME AND PLACE OF THE HEARING, THE MANNER IN
5 WHICH INTERESTED PERSONS MAY PRESENT THEIR VIEWS AND THE METHOD BY WHICH
6 COPIES OF THE PROPOSED RULE, PROPOSED AMENDMENT OR REPEAL OF AN EXISTING RULE
7 MAY BE OBTAINED. ALL MEETINGS OF THE BOARD SHALL BE HELD IN PHOENIX. ALL
8 MEETINGS OF LOCAL BOARDS SHALL BE HELD IN THE COUNTY OF RESIDENCE OF THE
9 LOCAL PUBLIC EMPLOYER. THE BOARD OR LOCAL BOARD SHALL PUBLISH A NOTICE ONCE
10 AT LEAST THIRTY DAYS BEFORE THE HEARING DATE IN A NEWSPAPER OF GENERAL
11 CIRCULATION IN THIS STATE OR, IN THE CASE OF A LOCAL BOARD HEARING, IN A
12 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY. THE BOARD OR LOCAL BOARD
13 SHALL MAIL A NOTICE AT LEAST THIRTY DAYS BEFORE THE HEARING DATE TO ALL
14 PERSONS WHO HAVE MADE A WRITTEN REQUEST FOR ADVANCE NOTICE OF HEARINGS.

15 E. THE BOARD OR LOCAL BOARD SHALL MAKE AN ELECTRONIC RECORD OF ALL
16 HEARINGS.

17 23-1429. Appropriate bargaining units

18 A. ON RECEIPT OF A PETITION FOR A REPRESENTATION ELECTION FILED BY A
19 LABOR ORGANIZATION, THE BOARD OR A LOCAL BOARD SHALL DESIGNATE THE
20 APPROPRIATE BARGAINING UNITS FOR COLLECTIVE BARGAINING. APPROPRIATE
21 BARGAINING UNITS SHALL BE ESTABLISHED ON THE BASIS OF OCCUPATIONAL GROUPS.
22 ESSENTIAL FACTORS IN DETERMINING APPROPRIATE BARGAINING UNITS SHALL INCLUDE
23 THE PRINCIPLES OF EFFICIENT ADMINISTRATION OF GOVERNMENT, THE HISTORY OF
24 COLLECTIVE BARGAINING AND THE ASSURANCE TO PUBLIC EMPLOYEES OF THE FULLEST
25 FREEDOM IN EXERCISING THE RIGHTS GUARANTEED BY THIS ARTICLE. FOR THE
26 PURPOSES OF THIS SUBSECTION, "OCCUPATIONAL GROUPS" MEANS A CLEAR AND
27 IDENTIFIABLE COMMUNITY OF INTEREST IN EMPLOYMENT TERMS AND CONDITIONS AND
28 RELATED PERSONNEL MATTERS AMONG THE PUBLIC EMPLOYEES INVOLVED. OCCUPATIONAL
29 GROUPS INCLUDE EMPLOYEES OF BLUE-COLLAR, SECRETARIAL, CLERICAL, TECHNICAL,
30 PROFESSIONAL, PARAPROFESSIONAL, POLICE, FIRE AND CORRECTIONS POSITIONS.

31 B. WITHIN THIRTY DAYS AFTER A DISAGREEMENT BETWEEN A PUBLIC EMPLOYER
32 AND A LABOR ORGANIZATION CONCERNING THE COMPOSITION OF AN APPROPRIATE
33 BARGAINING UNIT, THE BOARD OR A LOCAL BOARD SHALL HOLD A HEARING CONCERNING
34 THE COMPOSITION OF THE BARGAINING UNIT BEFORE DESIGNATING AN APPROPRIATE
35 BARGAINING UNIT.

36 C. THE BOARD OR A LOCAL BOARD SHALL NOT INCLUDE IN ANY APPROPRIATE
37 BARGAINING UNIT SUPERVISORS, MANAGEMENT EMPLOYEES OR CONFIDENTIAL EMPLOYEES.

38 23-1430. Elections

39 A. IF, IN ACCORDANCE WITH RULES ADOPTED BY THE BOARD OR A LOCAL BOARD,
40 A LABOR ORGANIZATION FILES A PETITION WITH THE BOARD OR LOCAL BOARD AND THE
41 PETITION CONTAINS THE SIGNATURES OF AT LEAST THIRTY PER CENT OF THE PUBLIC
42 EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT, THE BOARD OR LOCAL BOARD SHALL
43 CONDUCT A SECRET BALLOT REPRESENTATION ELECTION TO DETERMINE WHETHER AND BY
44 WHICH LABOR ORGANIZATION THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING
45 UNIT SHALL BE REPRESENTED. THE BALLOT SHALL CONTAIN THE FOLLOWING:

1 1. THE NAMES OF ANY LABOR ORGANIZATION THAT SUBMITS A PETITION
2 CONTAINING SIGNATURES OF AT LEAST TEN PER CENT OF THE PUBLIC EMPLOYEES WITHIN
3 THE APPROPRIATE BARGAINING UNIT.

4 2. A PROVISION ALLOWING THE PUBLIC EMPLOYEES TO INDICATE IF THE PUBLIC
5 EMPLOYEES DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION.

6 B. AFTER A LABOR ORGANIZATION FILES A VALID PETITION WITH THE BOARD OR
7 A LOCAL BOARD CALLING FOR A REPRESENTATION ELECTION, OTHER LABOR
8 ORGANIZATIONS MAY SEEK TO BE PLACED ON THE BALLOT BY FILING A PETITION
9 CONTAINING THE SIGNATURES OF AT LEAST TEN PER CENT OF THE PUBLIC EMPLOYEES IN
10 THE APPROPRIATE BARGAINING UNIT. THE PETITION SHALL BE FILED NO LATER THAN
11 TEN DAYS AFTER THE BOARD OR LOCAL BOARD AND THE PUBLIC EMPLOYER POST A
12 WRITTEN NOTICE THAT THE PETITION CONTAINING THE SIGNATURES OF AT LEAST THIRTY
13 PER CENT OF THE PUBLIC EMPLOYEES HAS BEEN FILED BY A LABOR ORGANIZATION.

14 C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE BOARD OR A LOCAL
15 BOARD MAY ESTABLISH AN ALTERNATIVE APPROPRIATE PROCEDURE FOR DETERMINING
16 MAJORITY STATUS. THE BOARD OR LOCAL BOARD SHALL NOT CERTIFY ANY APPROPRIATE
17 BARGAINING UNIT IF THE PUBLIC EMPLOYER OBJECTS TO THE CERTIFICATION WITHOUT
18 AN ELECTION.

19 D. WITHIN FIFTEEN DAYS AFTER AN ELECTION IN WHICH NO LABOR
20 ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, A RUNOFF ELECTION BETWEEN
21 THE TWO CHOICES RECEIVING THE LARGEST NUMBER OF VOTES CAST SHALL BE
22 CONDUCTED. THE BOARD OR A LOCAL BOARD SHALL CERTIFY THE RESULTS OF THE
23 ELECTION. IF A LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, THE
24 BOARD OR LOCAL BOARD SHALL CERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE
25 REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT.

26 E. AN ELECTION SHALL NOT BE CONDUCTED IF AN ELECTION OR RUNOFF
27 ELECTION HAS BEEN CONDUCTED WITHIN THE TWELVE MONTHS THAT IMMEDIATELY PRECEDE
28 THE PROPOSED REPRESENTATION ELECTION. AN ELECTION SHALL NOT BE HELD DURING
29 THE TERM OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT, EXCEPT AS PROVIDED
30 BY SECTION 23-1432.

31 23-1431. Exclusive representation

32 A. A LABOR ORGANIZATION THAT HAS BEEN CERTIFIED BY THE BOARD OR A
33 LOCAL BOARD TO REPRESENT PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT
34 SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE
35 APPROPRIATE BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL ACT FOR ALL
36 PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT AND NEGOTIATE A
37 COLLECTIVE BARGAINING AGREEMENT THAT COVERS ALL PUBLIC EMPLOYEES IN THE
38 APPROPRIATE BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL REPRESENT
39 THE INTERESTS OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT
40 WITHOUT DISCRIMINATION OR REGARD TO MEMBERSHIP IN THE LABOR ORGANIZATION.

41 B. THIS SECTION DOES NOT PREVENT A PUBLIC EMPLOYEE FROM ACTING
42 INDIVIDUALLY AND PRESENTING A GRIEVANCE WITHOUT THE INTERVENTION OF THE
43 EXCLUSIVE REPRESENTATIVE. IF A PUBLIC EMPLOYEE INDIVIDUALLY BRINGS A
44 GRIEVANCE AT ANY HEARING, THE EXCLUSIVE REPRESENTATIVE SHALL BE ALLOWED TO BE
45 PRESENT AND STATE OPINIONS. ANY ADJUSTMENT THAT IS MADE SHALL NOT BE

1 INCONSISTENT WITH OR IN VIOLATION OF THE COLLECTIVE BARGAINING AGREEMENT THAT
2 IS IN EFFECT BETWEEN THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE.

3 23-1432. Decertification of exclusive representative

4 A. ANY LABOR ORGANIZATION OR ANY MEMBER OF A LABOR ORGANIZATION MAY
5 INITIATE DECERTIFICATION OF A LABOR ORGANIZATION AS THE EXCLUSIVE
6 REPRESENTATIVE IF THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE
7 BARGAINING UNIT MAKE A WRITTEN REQUEST TO THE BOARD OR A LOCAL BOARD FOR A
8 DECERTIFICATION ELECTION. A DECERTIFICATION ELECTION SHALL BE HELD IN A
9 MANNER PRESCRIBED BY THE BOARD OR LOCAL BOARD.

10 B. IF A COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR LESS THAN
11 THREE YEARS, A REQUEST FOR A DECERTIFICATION ELECTION SHALL BE MADE TO THE
12 BOARD OR A LOCAL BOARD NO EARLIER THAN NINETY DAYS AND NO LATER THAN SIXTY
13 DAYS BEFORE THE EXPIRATION OF THE COLLECTIVE BARGAINING AGREEMENT. IF A
14 COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR MORE THAN THREE YEARS, A
15 REQUEST FOR AN ELECTION MAY BE FILED AT ANY TIME.

16 C. IF, WITHIN THE TIME PERIOD PRESCRIBED IN SUBSECTION B, A COMPETING
17 LABOR ORGANIZATION FILES A PETITION THAT CONTAINS THE SIGNATURES OF AT LEAST
18 THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT, A
19 REPRESENTATION ELECTION SHALL BE CONDUCTED INSTEAD OF A DECERTIFICATION
20 ELECTION.

21 D. IF AN EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED BUT NO COLLECTIVE
22 BARGAINING AGREEMENT IS IN EFFECT, THE BOARD OR A LOCAL BOARD SHALL NOT
23 ACCEPT A REQUEST FOR A DECERTIFICATION ELECTION EARLIER THAN TWELVE MONTHS
24 AFTER THE LABOR ORGANIZATION HAS BEEN CERTIFIED AS THE EXCLUSIVE
25 REPRESENTATIVE.

26 23-1433. Scope of bargaining: membership dues: grievance
27 procedure: closed meetings

28 A. EXCEPT FOR PUBLIC RETIREMENT SYSTEMS ESTABLISHED BY TITLE 38,
29 CHAPTER 5, PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES:

30 1. SHALL BARGAIN IN GOOD FAITH ON WAGES, HOURS AND OTHER TERMS AND
31 CONDITIONS OF EMPLOYMENT AND OTHER ISSUES AGREED TO BY THE PARTIES. THE
32 PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL NOT BE REQUIRED TO
33 AGREE TO A PROPOSAL OR TO MAKE A CONCESSION.

34 2. MAY ENTER INTO WRITTEN COLLECTIVE BARGAINING AGREEMENTS THAT COVER
35 EMPLOYMENT RELATIONS.

36 B. THE OBLIGATION TO COLLECTIVELY BARGAIN UNDER THIS ARTICLE DOES NOT
37 AUTHORIZE PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES TO ENTER INTO ANY
38 AGREEMENT THAT CONFLICTS WITH ANY STATUTE OF THIS STATE. IF A CONFLICT
39 EXISTS BETWEEN A STATUTE OF THIS STATE AND AN AGREEMENT ENTERED INTO BY THE
40 PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE IN COLLECTIVE BARGAINING,
41 THE STATUTE GOVERNS.

42 C. PAYROLL DEDUCTIONS OF THE EXCLUSIVE REPRESENTATIVE'S MEMBERSHIP
43 DUES SHALL BE A MANDATORY SUBJECT OF BARGAINING. THE AMOUNT OF DUES SHALL BE
44 CERTIFIED IN WRITING BY AN OFFICIAL OF THE LABOR ORGANIZATION AND SHALL NOT
45 INCLUDE SPECIAL ASSESSMENTS, PENALTIES OR FINES. THE DUTY OF THE PUBLIC

1 EMPLOYER TO HONOR PAYROLL DEDUCTIONS SHALL CONTINUE UNTIL THE AUTHORIZATION
2 IS REVOKED IN WRITING BY THE PUBLIC EMPLOYEE IN ACCORDANCE WITH THE
3 NEGOTIATED AGREEMENT AND FOR SO LONG AS THE LABOR ORGANIZATION IS CERTIFIED
4 AS THE EXCLUSIVE REPRESENTATIVE. DURING THE TIME THAT A BOARD CERTIFICATION
5 IS IN EFFECT FOR A PARTICULAR APPROPRIATE BARGAINING UNIT, THE PUBLIC
6 EMPLOYER SHALL NOT DEDUCT DUES FOR ANY OTHER LABOR ORGANIZATION.

7 D. OCCUPATIONAL GROUPS SHALL NEGOTIATE ALL ISSUES AT THE STATE LEVEL.

8 E. ANY IMPASSE RESOLUTION OR ANY AGREEMENT PROVISION BY THIS STATE AND
9 AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL BE
10 CONTINGENT ON THE SPECIFIC APPROPRIATION OF MONIES BY THE LEGISLATURE AND THE
11 AVAILABILITY OF THE MONIES. ANY IMPASSE RESOLUTION OR ANY AGREEMENT
12 PROVISION BY A PUBLIC EMPLOYER OTHER THAN THIS STATE OR THE PUBLIC SCHOOLS
13 AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL
14 BE CONTINGENT ON THE SPECIFIC APPROPRIATION FOR WAGES BY THE APPROPRIATE
15 GOVERNING BODY AND THE AVAILABILITY OF THE MONIES. ANY AGREEMENT PROVISION
16 BY A LOCAL SCHOOL BOARD AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE
17 EXPENDITURE OF MONIES SHALL BE CONTINGENT ON RATIFICATION BY THE APPROPRIATE
18 GOVERNING BODY.

19 F. EVERY AGREEMENT SHALL INCLUDE A GRIEVANCE PROCEDURE TO BE USED FOR
20 THE SETTLEMENT OF DISPUTES THAT RELATE TO EMPLOYMENT TERMS AND CONDITIONS AND
21 RELATED PERSONNEL MATTERS. THE GRIEVANCE PROCEDURE SHALL PROVIDE FOR A FINAL
22 AND BINDING DETERMINATION. THE FINAL DETERMINATION CONSTITUTES AN
23 ARBITRATION AWARD. IF THERE IS A JUDICIAL REVIEW OF THE AWARD, THE COURT
24 SHALL DETERMINE IF THE AWARD IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS
25 OR NOT BASED ON SUBSTANTIAL EVIDENCE. THE COSTS OF ANY ARBITRATION
26 PROCEEDING CONDUCTED PURSUANT TO THIS SECTION SHALL BE SHARED EQUALLY BY THE
27 PARTIES.

28 G. THE FOLLOWING SHALL BE CLOSED:

29 1. MEETINGS IN WHICH BARGAINING STRATEGY IS PRELIMINARY TO COLLECTIVE
30 BARGAINING NEGOTIATIONS BETWEEN A PUBLIC EMPLOYER AND THE EXCLUSIVE
31 REPRESENTATIVE OF THE PUBLIC EMPLOYEES OF THE PUBLIC EMPLOYER.

32 2. COLLECTIVE BARGAINING SESSIONS.

33 3. CONSULTATIONS AND IMPASSE RESOLUTION PROCEDURES IF THE PUBLIC
34 EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OF THE APPROPRIATE BARGAINING UNIT
35 ARE PRESENT.

36 23-1434. Impasse resolution; mediation; arbitration

37 A. THE FOLLOWING NEGOTIATIONS AND IMPASSE PROCEDURES SHALL BE FOLLOWED
38 BETWEEN THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR STATE EMPLOYEES:

39 1. A REQUEST FOR THE BEGINNING OF INITIAL NEGOTIATIONS SHALL BE FILED
40 IN WRITING BY THE EXCLUSIVE REPRESENTATIVE TO THIS STATE NO LATER THAN JUNE 1
41 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE. NEGOTIATIONS SHALL
42 BEGIN NO LATER THAN JULY 1 OF THAT YEAR.

43 2. IN THE YEARS FOLLOWING INITIAL NEGOTIATIONS PURSUANT TO PARAGRAPH 1
44 OF THIS SUBSECTION, NEGOTIATIONS THAT ARE AGREED TO BY THIS STATE AND THE
45 EXCLUSIVE REPRESENTATIVE SHALL BEGIN NO LATER THAN AUGUST 1 FOLLOWING THE

1 SUBMISSION OF WRITTEN NOTICE TO THIS STATE BY THE EXCLUSIVE REPRESENTATIVE.
2 THE EXCLUSIVE REPRESENTATIVE SHALL SUBMIT THE WRITTEN NOTICE TO THIS STATE BY
3 JULY 1 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE.

4 3. IF AN IMPASSE OCCURS DURING NEGOTIATIONS BETWEEN THIS STATE AND THE
5 EXCLUSIVE REPRESENTATIVE AND NO AGREEMENT IS REACHED BY OCTOBER 1, THIS STATE
6 OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST MEDIATION SERVICES FROM THE
7 BOARD. THE BOARD SHALL ASSIGN A MEDIATOR FROM THE FEDERAL MEDIATION AND
8 CONCILIATION SERVICE TO ASSIST NEGOTIATIONS UNLESS THE PARTIES AGREE TO
9 ANOTHER MEDIATOR.

10 4. THE MEDIATOR SHALL PROVIDE SERVICES UNTIL AN AGREEMENT IS REACHED,
11 UNTIL THE MEDIATOR BELIEVES THAT MEDIATION SERVICES ARE NO LONGER HELPFUL OR
12 UNTIL DECEMBER 1, WHICHEVER OCCURS FIRST.

13 5. IF THE IMPASSE CONTINUES AFTER DECEMBER 1, THIS STATE OR THE
14 EXCLUSIVE REPRESENTATIVE MAY REQUEST THE FORMATION OF AN ARBITRATION PANEL.
15 THE ARBITRATION PANEL SHALL ADDRESS THE UNRESOLVED ISSUES. THE ARBITRATION
16 PANEL SHALL CONSIST OF ONE MEMBER WHO IS APPOINTED BY THE EXCLUSIVE
17 REPRESENTATIVE, ONE MEMBER WHO IS APPOINTED BY THIS STATE AND A THIRD MEMBER
18 WHO IS APPOINTED BY THE OTHER TWO MEMBERS. IF THERE IS A JUDICIAL REVIEW OF
19 THE DECISION OF THE ARBITRATION PANEL, THE COURT SHALL DETERMINE WHETHER THE
20 DECISION IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS OR NOT BASED ON
21 SUBSTANTIAL EVIDENCE.

22 B. EXCEPT FOR THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR THIS
23 STATE, THE FOLLOWING IMPASSE PROCEDURES SHALL BE FOLLOWED BY ALL OTHER PUBLIC
24 EMPLOYERS AND EXCLUSIVE REPRESENTATIVES:

25 1. IF AN IMPASSE OCCURS AND THE PUBLIC EMPLOYER AND THE EXCLUSIVE
26 REPRESENTATIVE CANNOT AGREE ON A MEDIATOR, THE PUBLIC EMPLOYER OR THE
27 EXCLUSIVE REPRESENTATIVE MAY REQUEST FROM THE BOARD OR LOCAL BOARD THAT A
28 MEDIATOR BE ASSIGNED TO THE NEGOTIATIONS. THE BOARD OR LOCAL BOARD SHALL
29 ASSIGN A MEDIATOR WITH THE FEDERAL MEDIATION AND CONCILIATION SERVICE TO
30 ASSIST NEGOTIATIONS.

31 2. IF THE IMPASSE CONTINUES AFTER A SIXTY DAY MEDIATION PERIOD, EITHER
32 THE PUBLIC EMPLOYER OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST THE FORMATION
33 OF AN ARBITRATION PANEL. THE ARBITRATION PANEL SHALL CONSIST OF ONE MEMBER
34 WHO IS APPOINTED BY THE EXCLUSIVE REPRESENTATIVE, ONE MEMBER WHO IS APPOINTED
35 BY THE PUBLIC EMPLOYER AND A THIRD MEMBER WHO IS APPOINTED BY THE OTHER TWO
36 MEMBERS. IF THERE IS A JUDICIAL REVIEW OF THE DECISION OF THE ARBITRATION
37 PANEL, THE COURT SHALL DETERMINE WHETHER THE DECISION IS ARBITRARY, UNLAWFUL,
38 UNREASONABLE, CAPRICIOUS OR NOT BASED ON SUBSTANTIAL EVIDENCE.

39 C. EXCEPT FOR THIS STATE, A PUBLIC EMPLOYER MAY ENTER INTO A WRITTEN
40 AGREEMENT WITH THE EXCLUSIVE REPRESENTATIVE THAT ESTABLISHES AN ALTERNATIVE
41 IMPASSE RESOLUTION PROCEDURE.

42 23-1435. Prohibited practices; public employers; public
43 employees

44 A. IT IS A PROHIBITED PRACTICE FOR A PUBLIC EMPLOYER OR ITS DESIGNATED
45 REPRESENTATIVE TO DO ANY OF THE FOLLOWING:

1 1. INTERFERE WITH, RESTRAIN OR COERCE, OR THREATEN TO INTERFERE WITH,
2 RESTRAIN OR COERCE, ANY EMPLOYEE IN OR BECAUSE OF THE EXERCISE OF ANY RIGHTS
3 GUARANTEED BY THIS ARTICLE.

4 2. CONTROL, DOMINATE OR INTERFERE WITH THE FORMATION, EXISTENCE OR
5 ADMINISTRATION OF ANY LABOR ORGANIZATION OR SUPPORT OR IN ANY WAY ENCOURAGE
6 EMPLOYEES TO JOIN ANY ORGANIZATION IN PREFERENCE TO ANOTHER.

7 3. DISCRIMINATE OR RETALIATE AGAINST ANY EMPLOYEE FOR FILING A
8 GRIEVANCE OR FOR ASSERTING RIGHTS UNDER THIS ARTICLE.

9 4. REFUSE OR FAIL TO MEET AND CONFER IN GOOD FAITH WITH THE EXCLUSIVE
10 REPRESENTATIVE OR REFUSE OR FAIL TO PARTICIPATE IN GOOD FAITH IN THE
11 MEDIATION OR ARBITRATION.

12 5. DENY TO A LABOR ORGANIZATION RIGHTS THAT ARE GUARANTEED TO IT BY
13 THIS CHAPTER.

14 6. REFUSE OR FAIL TO COMPLY WITH THIS ARTICLE OR ANY RULE ADOPTED BY
15 THE BOARD OR LOCAL BOARD.

16 7. REFUSE OR FAIL TO COMPLY WITH ANY COLLECTIVE BARGAINING AGREEMENT.

17 8. ENGAGE IN A LOCKOUT OF ANY EMPLOYEES.

18 B. IT IS A PROHIBITED PRACTICE FOR A PUBLIC EMPLOYEE OR A LABOR
19 ORGANIZATION TO DO ANY OF THE FOLLOWING:

20 1. INTERFERE WITH, RESTRAIN OR COERCE, OR THREATEN TO INTERFERE WITH,
21 RESTRAIN OR COERCE, ANY EMPLOYEE IN OR BECAUSE OF THE EXERCISE OF RIGHTS
22 GUARANTEED BY THIS ARTICLE.

23 2. DISCRIMINATE OR RETALIATE AGAINST ANY EMPLOYEE FOR FILING A
24 GRIEVANCE OR FOR ASSERTING RIGHTS UNDER THIS ARTICLE.

25 3. DISCRIMINATE AGAINST A PUBLIC EMPLOYEE REGARDING MEMBERSHIP IN A
26 LABOR ORGANIZATION BECAUSE OF RACE, COLOR, CREED, AGE, SEX OR NATIONAL
27 ORIGIN.

28 4. REFUSE TO ENTER INTO COLLECTIVE BARGAINING IN GOOD FAITH WITH THE
29 PUBLIC EMPLOYER.

30 5. REFUSE OR FAIL TO MEET AND CONFER IN GOOD FAITH WITH THE EXCLUSIVE
31 REPRESENTATIVE, INCLUDING REFUSAL OR FAILURE TO PARTICIPATE IN GOOD FAITH IN
32 MEDIATION OR ARBITRATION.

33 6. REFUSE OR FAIL TO COMPLY WITH ANY COLLECTIVE BARGAINING AGREEMENT
34 OR THIS ARTICLE.

35 7. PICKET HOMES OR PRIVATE BUSINESSES OF ELECTED OFFICIALS OR PUBLIC
36 EMPLOYEES.

37 8. INDUCE, AUTHORIZE OR PARTICIPATE IN A STRIKE AGAINST ANY PUBLIC
38 EMPLOYER.

39 23-1436. Strikes and lockouts; prohibition; decertification

40 A. A PUBLIC EMPLOYEE OR LABOR ORGANIZATION SHALL NOT ENGAGE IN A
41 STRIKE. A LABOR ORGANIZATION SHALL NOT CAUSE, INSTIGATE, ENCOURAGE OR
42 SUPPORT A PUBLIC EMPLOYEE STRIKE. A PUBLIC EMPLOYER SHALL NOT CAUSE,
43 INSTIGATE OR ENGAGE IN ANY PUBLIC EMPLOYEE LOCKOUT.

1 B. A PUBLIC EMPLOYER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF TO END
2 A STRIKE. THE EXCLUSIVE REPRESENTATIVE OF PUBLIC EMPLOYEES WHO ARE AFFECTED
3 BY A LOCKOUT MAY BRING AN ACTION FOR INJUNCTIVE RELIEF TO END A LOCKOUT.

4 C. ANY LABOR ORGANIZATION THAT CAUSES, INSTIGATES, ENCOURAGES OR
5 SUPPORTS A PUBLIC EMPLOYEE STRIKE, WALKOUT OR SLOWDOWN MAY BE DECERTIFIED AS
6 THE EXCLUSIVE REPRESENTATIVE FOR THAT APPROPRIATE BARGAINING UNIT BY EITHER
7 THE BOARD OR A LOCAL BOARD AND SHALL NOT SERVE AS THE EXCLUSIVE
8 REPRESENTATIVE OF ANY BARGAINING UNIT OF PUBLIC EMPLOYEES FOR A PERIOD THAT
9 DOES NOT EXCEED ONE YEAR.

10 23-1437. Agreements; enforcement

11 ALL COLLECTIVE BARGAINING AGREEMENTS AND OTHER AGREEMENTS BETWEEN
12 PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES ARE VALID AND ENFORCEABLE
13 ACCORDING TO THE TERMS OF THE AGREEMENT IF ENTERED INTO IN ACCORDANCE WITH
14 THIS ARTICLE.

15 23-1438. Judicial enforcement

16 A. THE TERMS OF ANY AGREEMENT MAY BE ENFORCED BY EITHER PARTY BY A
17 CIVIL ACTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE AGREEMENT WAS
18 MADE. THE BOARD OR A LOCAL BOARD MAY REQUEST THE COURT TO ENFORCE AN ORDER
19 ISSUED PURSUANT TO THIS ARTICLE, INCLUDING ORDERS FOR APPROPRIATE TEMPORARY
20 RELIEF AND RESTRAINING ORDERS. THE COURT SHALL CONSIDER THE REQUEST FOR
21 ENFORCEMENT ON THE RECORD MADE BEFORE THE BOARD OR LOCAL BOARD. THE COURT
22 SHALL UPHOLD THE ACTION OF THE BOARD OR LOCAL BOARD AND TAKE APPROPRIATE
23 ACTION TO ENFORCE THE BOARD'S OR LOCAL BOARD'S ACTION UNLESS THE COURT
24 CONCLUDES THAT THE ORDER IS:

- 25 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.
- 26 2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD CONSIDERED AS A
27 WHOLE.
- 28 3. NOT IN ACCORDANCE WITH LAW.

29 B. ANY PERSON OR PARTY, INCLUDING ANY LABOR ORGANIZATION THAT IS
30 AFFECTED BY A FINAL RULE, ORDER OR DECISION OF THE BOARD OR A LOCAL BOARD,
31 MAY APPEAL TO THE COURT FOR FURTHER RELIEF. ALL APPEALS SHALL BE BASED ON
32 THE RECORD MADE AT THE BOARD OR LOCAL BOARD HEARING. ALL APPEALS TO THE
33 COURT SHALL BE TAKEN WITHIN THIRTY DAYS AFTER THE DATE OF THE FINAL RULE,
34 ORDER OR DECISION OF THE BOARD OR LOCAL BOARD. ACTIONS THAT ARE TAKEN BY THE
35 BOARD OR LOCAL BOARD SHALL BE AFFIRMED UNLESS THE COURT CONCLUDES THAT THE
36 ACTION IS:

- 37 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.
- 38 2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD TAKEN AS A
39 WHOLE.
- 40 3. NOT IN ACCORDANCE WITH LAW.

1 Sec. 2. Section 41-1092.02, Arizona Revised Statutes, is amended to
2 read:

3 41-1092.02. Appealable agency actions; application of
4 procedural rules; exemption from article

5 A. This article applies to all contested cases as defined in section
6 41-1001 and all appealable agency actions, except contested cases with or
7 appealable agency actions of:

- 8 1. The state department of corrections.
- 9 2. The board of executive clemency.
- 10 3. The industrial commission of Arizona.
- 11 4. The Arizona corporation commission.
- 12 5. The Arizona board of regents and institutions under its
13 jurisdiction.
- 14 6. The state personnel board.
- 15 7. The department of juvenile corrections.
- 16 8. The department of transportation.
- 17 9. The department of economic security except as provided in sections
18 8-506.01, 8-811 and 46-458.
- 19 10. The department of revenue regarding:
20 (a) Income tax, withholding tax or estate tax.
21 (b) Any tax issue related to information associated with the reporting
22 of income tax, withholding tax or estate tax unless the taxpayer requests in
23 writing that this article apply and waives confidentiality under title 42,
24 chapter 2, article 1.
- 25 11. The board of tax appeals.
- 26 12. The state board of equalization.
- 27 13. The state board of education, but only in connection with contested
28 cases and appealable agency actions related to applications for issuance or
29 renewal of a certificate and discipline of certificate holders pursuant to
30 sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
- 31 14. The board of fingerprinting.
- 32 15. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

33 B. Unless waived by all parties, an administrative law judge shall
34 conduct all hearings under this article, and the procedural rules set forth
35 in this article and rules made by the director apply.

36 C. Except as provided in subsection A of this section:

37 1. A contested case heard by the office of administrative hearings
38 regarding taxes administered under title 42 shall be subject to ~~the~~
39 ~~provisions under~~ section 42-1251.

40 2. A final decision of the office of administrative hearings regarding
41 taxes administered under title 42 may be appealed by either party to the
42 director of the department of revenue, or a taxpayer may file and appeal
43 directly to the board of tax appeals pursuant to section 42-1253.

44 D. Except as provided in subsections A, B, E, F and G of this section
45 and notwithstanding any other administrative proceeding or judicial review

1 process established in statute or administrative rule, this article applies
2 to all appealable agency actions and to all contested cases.

3 E. Except for a contested case or an appealable agency action
4 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09
5 do not apply to the department of revenue.

6 F. The board of appeals established by section 37-213 is exempt from:

7 1. The time frames for hearings and decisions provided in section
8 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

9 2. The requirement in section 41-1092.06, subsection A to hold an
10 informal settlement conference at the appellant's request if the sole subject
11 of an appeal pursuant to section 37-215 is the estimate of value reported in
12 an appraisal of lands or improvements.

13 G. Auction protest procedures pursuant to title 37, chapter 2, article
14 4.1 are exempt from this article.

15 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
16 amended by adding section 41-3019.01, to read:

17 41-3019.01. Public employee labor relations board; termination
18 July 1, 2019

19 A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD TERMINATES ON JULY 1,
20 2019.

21 B. TITLE 23, CHAPTER 8, ARTICLE 7 IS REPEALED ON JANUARY 1, 2020.

22 Sec. 4. Purpose

23 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
24 the purpose of the public employee labor relations board is to encourage
25 conciliation, mediation and voluntary arbitration, to aid and encourage
26 employers and their employees to reach and maintain collective bargaining
27 agreements concerning rates of pay, hours and working conditions and to make
28 all reasonable efforts through negotiations to settle their differences by
29 mutual agreement reached through collective bargaining or by those methods as
30 may be provided for in any applicable agreement for the settlement of
31 disputes.